



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

November 10, 2009

1. Bill Number and Sponsor:

House Bill (HB) 5559
Representative Sarah Roberts et al.
Referred to Committee on Great Lakes and Environment

2. Purpose:

This bill would amend Part 115, Solid Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, by distributing the \$7.50 "Recycling and Waste Diversion Surcharge" (Surcharge) assessed on each ton of solid waste that is disposed of in a landfill or a municipal solid waste incinerator as described in HB 5558.

3. How This Legislation Impacts Current Programs in the Department:

The legislation affects current programs in the Department of Environmental Quality (DEQ) by funding or requiring the DEQ to:

- Administer and enforce Part 115.
- Administer the Market Development Fund.
- Expend the money appropriated to the Market Development Fund for grants or other incentives to private or public entities to expand markets for recycled materials in Michigan.
- Provide recycling technical assistance.
- Administer the Recycling Fund.
- Distribute revenue generated by the Surcharge and appropriated to the Recycling Fund, on a quarterly basis, to counties, cities, villages, and townships that meet the requirements of the bill.
- Administer a county solid waste planning grant program.
- Create, collect, and review forms submitted by each municipality that include an agreement to use the funds designated for recycling to offset the costs of a recycling program.
- Compile information submitted by counties in the form of a waste diversion report.
- Serve on the Recycling Advisory Council.

4. Introduced at Agency Request:

No.

5. Agency Support:

Yes, if amended to include a clear, simple, and streamlined revenue distribution process.

6. Justification for the Department's Position:

The bill provides a funding mechanism for Michigan's Solid Waste Management Program, including permitting, inspections, complaint response, enforcement, and solid waste planning.

This bill provides a funding mechanism for local recycling programs and would increase the participation rate and availability of recycling throughout the state. Furthermore, as residential recycling programs expand, opportunities for business and industry recycling would also increase because additional capacity to process all recyclable materials would be constructed.

This bill provides a mechanism to move forward in meeting the state's waste utilization goals as identified in the 2007 Solid Waste Policy. It also provides a mechanism for gathering the data needed to measure achievement of the goals.

Because a third of the funds will be generated from out-of-state waste disposal, the average Michigan resident would receive a third more in services than they would if no waste was being imported into Michigan, thereby helping to compensate Michigan residents for the impacts caused by solid waste importation.

A substantial amount of money would be available to counties and local units of government for discretionary spending "to promote the health, safety, or welfare of the citizens."

Counties are not currently provided funds to update or amend their county Solid Waste Management Plan. This bill would provide funds to counties for that purpose.

Michigan's recycling rate is the lowest in the region. About a third of all Michigan residents have access to only curbside recycling, and only half have access to both curbside and drop-off recycling. Without substantial investment in recycling collection, Michigan's recycling rate will not improve.

A Surcharge on solid waste disposal, as is used in approximately half of the other states, would provide the funds necessary to bring Michigan's collection infrastructure up to nationally comparable levels.

The Surcharge funding mechanism has the added benefit of helping to make recycling and disposal costs more equivalent. Michigan has some of the lowest disposal costs in the region, providing little incentive to recycle rather than dispose of waste. Residential and business trash bills would be higher unless more waste is recycled. Citizens living in communities investing in efficient and effective recycling programs would pay less because they would be disposing of less waste. Thus, an additional economic incentive is created for a community providing a recycling program to its citizens.

The Surcharge would provide all communities with an easily accessible opportunity to fund recycling. Communities would receive funding if they invest in a benchmark recycling program.

7. State Revenue/Budgetary Implications:

The bill provides for \$6.65 million of the Surcharge to be distributed to the DEQ to fulfill the responsibilities described in the Surcharge legislation. It is estimated that up to 5 additional FTEs (\$675,000.00) will be needed to administer the added recycling related requirements and to distribute the large number of quarterly payments.

Additionally, the bill replaces the current \$0.07 surcharge, which is inadequate to fund the regulatory activities of the Solid Waste Management Program. To fund the minimum 42 FTEs needed to fulfill the regulatory obligations required under Part 115 (inspections, permitting, complaint response, enforcement, solid waste planning, etc.), \$5.7 million/year is required.

Therefore, a total of 47 FTEs (\$6.3 million in FY 2011 dollars) would be necessary to administer the current Solid Waste Management Program, plus the additional responsibilities included in the bill. Over time, the funds distributed to the DEQ will decrease in real value because there is no provision to increase the funds available to the DEQ based on inflation. With this understanding, the revenue set aside for the Program will be fixed, while expenses will increase each year by approximately two percent. After four years, it is projected that there will no longer be sufficient revenue to support 47 FTEs. At that time, it will be necessary to either revisit the funding formula, reduce the size of the Solid Waste Management Program (i.e., the number of staff), or provide for an alternate funding source.

It is important that the funding mechanism replacing the \$0.07/cubic yard surcharge be a fixed amount, as it is in this bill, rather than a percentage of the funds collected because increased recycling efforts and decreased solid waste importation will result in a continual decrease in the amount of funds available.

8. Implications to Local Units of Government:

The Surcharge will have a large impact on recycling as well as local government budgets. A substantial amount of funds generated through the Surcharge will be available to local units of government for discretionary spending "to promote the health, safety, or welfare of the citizens."

9. Administrative Rules Implications:

Administrative rules may be needed to implement the provisions of this bill and the tie-barred HB 5558.

10. Other Pertinent Information:

This bill contains a tie-bar to House Bill 5558 that establishes the Surcharge.

The timing of the revenue distributions should be clarified. Under HB 5558, Section 11532A(2), the Surcharge payments from the landfills and incinerators are due 30 days after the end of each quarter. Under HB 5559, Section 11532D(1), distributions to local units of government are to be made by the first day of every third month after the month in which the Surcharge is initially assessed. Synchronization of Surcharge payments and distributions under these provisions could be problematic, especially if the quarterly Surcharge payments are not timely.

A similar surcharge bill was introduced in the previous legislative session and subsequently reviewed by the DEQ as HB 4222. Additionally, a \$7.50 per ton surcharge on only municipal and commercially-generated solid waste was introduced by Senator Liz Brater this session as Senate Bill 81, which would create a fund that is distributed by percentage for various activities rather than by specific amounts for mainly recycling activities. The DEQ supported both bills.

The bill amends Section 11502, primarily for the purpose of placing the definitions in alphabetical order.



Steven E. Chester, Director
Department of Environmental Quality